

Lamoine Planning Board
February, 2014

PROPOSED AMENDMENTS TO GRAVEL ORDINANCE

Dear Neighbors,

We are proposing three revisions to the Lamoine Gravel Ordinance. They will be voted on at our annual Town Meeting, March 12 at 6 p.m. at the Lamoine School. We hope the information provided here will help you to make a sound choice when you vote at Town Meeting.

Why more revisions now? The 2013 Town Meeting approved a set of revisions aimed at three goals: 1. Simplifying the application process; 2. Strengthening protection of groundwater quality and quantity; and 3. Creating wider buffer zones between pit operations and neighbors. After the town passed the Gravel Ordinance, the Planning Board identified three areas of concern to them and to community members that warranted further revision.

What is the purpose of each of these revisions?

1. Revision of the Appeals process. Purpose: To clarify language so that the Appeals Board would deal only with errors of administration and interpretation of the Gravel Ordinance. The town's lawyer developed and recommended the language to achieve this goal. (See Section 7G on page 2.)

2. Revision of the Setback section dealing with the new 100' buffer zone from neighboring properties. Purpose: to give current operators a way to extract sand and gravel within the buffer zone (to the old 50' setback) with the agreement of neighbors and the stipulation that any such extraction would be followed immediately by restoration (See Section 8A, page 3.)

3. Revision of the Restoration section dealing with Gravel Pit Restoration Accounts. Purpose: to clarify the depositing and use of funds in Gravel Pit Restoration accounts to ensure that funds will exist for restoration regardless of changes of ownership, financial distress of an operator, etc. (See Section 8D, page 4.)

We, your Planning Board, voted to recommend these revisions for adoption (without a dissenting vote cast). We continue to consider improvements to this ordinance, as we do with all ordinances. The wording of each revision is on the following pages. Please do not hesitate to contact us if you have questions or need more information.

The Lamoine Planning Board

John Holt, Don Bamman, Gordon Donaldson, Chris Tadema-Wielandt, Jim Gallagher, Perry Fowler, and Charles Webber

PROPOSED REVISIONS TO LAMOINE GRAVEL ORDINANCE (March, 2014)

SECTION 7 ADMINISTRATION G. APPEALS

Delete present wording:

The decision of the Planning Board may be appealed to the Lamoine Board of Appeals. The appeal shall be in writing and submitted within thirty (30) days of the decision of the Planning Board, and shall be accompanied by the required fee as established by the Lamoine Board of Selectmen.

Replace with:

1. Any decision of the Planning Board may be appealed by any party of standing to the Lamoine Board of Appeals. The appeal shall be in writing and submitted within thirty (30) days of the date of the written decision of the Planning Board and shall be accompanied by the required fee as established by the Lamoine Board of Selectmen.
2. A hearing shall be conducted by the Board of Appeals which may only consider matters of administrative procedure and/or interpretation of the provisions of an Ordinance.
 - a. When errors of administrative procedure are found by the Board of Appeals, the case shall be referred back to the Planning Board for rectification.
 - b. When errors of interpretation of provisions of an Ordinance are found, the Board of Appeals may modify the interpretation or reverse the order of the Planning Board, but may not alter any conditions attached by the Planning Board. All changes in conditions shall be made by the Planning Board in accordance with the Board of Appeals' interpretation.
3. Appeals involving conditions imposed by the Planning Board, or appeals of a decision to deny or approve, shall be made to Superior Court when such appeals do not involve administrative procedure and/or interpretation.

SECTION 8. PERFORMANCE STANDARDS A. SET-BACKS

Existing introduction (does not change):

All Gravel Operations shall conform to the following standards:

A. Set-backs

The purpose of set-backs is to lessen adverse impacts such as noise, erosion, despoiling of views, and deterioration of water quality on neighboring properties and residents. Except as provided for in A.1.a.& A.1.b. below, A.1-5 shall apply to all Gravel Operations permitted under this Ordinance.

1. A buffer strip of not less than 100 feet in width shall be maintained between the boundary of the Gravel Pit and the boundary of the Parcel on which the Pit is located.

Delete these sentences from (1):

For a period of three (3) years from effective date of this Ordinance, the 100-foot buffer strip between the boundary of the Gravel Pit and an abutting parcel boundary may be reduced to not less than fifty (50) feet with written permission of the current abutting property owner. Such written agreement shall be recorded at the Hancock County Registry of Deeds, making reference to the title deed of the owner of each such abutting Parcel. After said three (3) year period, reduction of the 100-foot set-back by an abutting parcel owner shall not be permitted.

Label the following existing language as sub-section (a):

- a. The buffer strip between permitted Gravel Pits on abutting Parcels may be eliminated with the written permission of both owners provided the elimination of the buffer strip does not increase the runoff from either excavation across the property boundary.

Add a new sub-section (b) as follows:

- b. Excavation in the 100-foot buffer strip may take place not less than fifty (50) feet from the Parcel boundary when conditions stated in A.2., A.3., and A.4., are met and if the following conditions are met:

(1) the Parcel or part thereof on which the Gravel Pit is located had been granted a Site Plan Review Permit for a Gravel Pit;

- (2) the owner of the abutting property grants written permission for the excavation to occur. Such written agreement shall be recorded at the Hancock County Registry of Deeds, making reference to the title deed of the owner of each such abutting Parcel;
- (3) excavation within the buffer strip may not exceed the 2.5-1.0 slope as required and described in Section 8.D.1.a (Restoration);
- (4) the area within the buffer strip anticipated to be excavated during the life of the Permit must be specified in the application and will be considered as part of the Pit; and
- (5) reclamation of the area designated in (4) above must be completed prior to the expiration of the Permit.

SECTION 8 PERFORMANCE STANDARDS D. RESTORATION

Delete existing sub-section (3) language:

3. Performance Guarantee – Escrow Account

Each permit holder shall pay to the Town of Lamoine \$0.05 (5 cents) for every cubic yard of material excavated and removed from the permitted area as disclosed in the Annual Report made to the CEO (see paragraph H. below). Such payment shall accompany the Annual Report. The amount paid shall be deposited by the Town in a Restoration escrow account bearing the permit holder's name and tax ID number. The sole purpose of the escrow account shall be to provide funds to cover the total costs of all required Restoration activities specified in the reclamation plan. Money may be withdrawn from the escrow account to pay for restoration work only after such work is completed to the satisfaction of the CEO. The permit holder is liable for all additional costs associated with reclamation if the funds available in the escrow account are insufficient to cover the actual costs of reclamation. Should the owner/operator fail to complete required Restoration work, a lien in an amount three times the estimated cost to complete required Restoration shall be recorded against the Parcel.

Replace with the following sub-section (3):

3. Performance Guarantee

- a. Each permit holder shall pay to the Town of Lamoine \$0.05 (5 cents) for every cubic yard of material excavated and removed from the permitted area. Such payment shall be made annually in an amount based on the number of cubic yards excavated and removed in the previous 12 months as disclosed in the Annual Report made to the CEO (see paragraph H. below). Such payment shall accompany the Annual Report.
- b. The amount paid to the Town shall be held in a Gravel Pit Restoration account, the sole purpose of which shall be to accumulate and provide funds to pay the costs of required Restoration activities specified in the

reclamation plan. The account shall keep record of which permit holder made payments and for which Gravel Pit the payments were made.

- c. Money shall be withdrawn by the Town Treasurer from the Gravel Pit Restoration account to pay for restoration work only after such work is completed to the satisfaction of the CEO. The CEO shall submit a written request to the Town Treasurer, noting the amount of payment to be made, the payee, and the Gravel Pit where restoration took place, and describing the work performed. A copy of the report shall be placed in the appropriate Gravel Pit permit file. The amount withdrawn may not exceed the amount credited to the Gravel Pit on which the Restoration work is undertaken.
- d. The permit holder is liable for all additional costs associated with reclamation if the accumulated funds available are insufficient to cover the actual costs of reclamation.
- e. Should funds remain after a Gravel Pit is fully restored as required by this Ordinance, such funds shall be paid to the permit holder at the time such reclamation is completed.
- f. Should the owner/operator fail to complete required Restoration work, a lien in an amount three times the estimated cost to complete required Restoration shall be recorded against the Parcel.